An Coimisiún Pleanála

Inspector's RZLT Report

File Ref. No.: ACP-324507-26

Local Authority Ref. No. FIN-C917-RZD27-25

Location: Kinsealy lane, Malahide, Co. Dublin.

Local Authority: Fingal County Council

Appellant(s): Anne & Maria Murphy

Inspector: Fergal Ó Bric

Site Location & Description
The site is located along the eastern side of Kinsealy Lane in Malahide, Co. Dublin. The site comprises an agricultural yard/hardstanding area. The remainder of the agricultural yard, located to the immediate north and further to the northwest, includes agricultural sheds and hardstanding areas associated with a horticultural farm holding and business. The site is surrounded to north-east, east, south, and west by established residential development.
Zoning & Other Provisions
The site which is the subject of this appeal is zoned 'RS Residential' in the current Fingal County Development Plan, 2023-2029. The Zoning Objective is to *'Provide for residential development and protect and improve residential quality.'* The Zoning Objective Vision is to *'Ensure that any new development in existing areas would have a minimal impact on and enhance existing residential amenity'.*
Planning History
ACP ref. no. 323273-25-The Coimisiún determined that the subject lands be considered in scope, given that they accord with the criteria set out in section 653B of the Taxes Consolidation Act 1997, as amended. **F01A/0609:** Permission for Demolition of existing agricultural shed and outhouses and the erection of replacement agricultural buildings comprising of a pair of semi-detached sheds with lean-to shed to side of one unit and detached domestic garage. Permission was REFUSED in July 2001 for 2 no. reasons relating to i) Material Contravention of Residential Zoning Objective and ii) Design/ Visual Impact.

F02A/0193: Permission to demolish existing outhouses, extend existing main agricultural barn to side, with lean to barn extension to rear of existing and proposed re-roof existing small barn and extend roof onto existing and proposed main barn in a lean to style to provide additional infill barn, also to erect a detached single garage. Permission was GRANTED in June 2002 subject to 9 no. conditions.

F09A/0336: Permission for the construction of a detached agricultural shed for the storage of agricultural machinery and equipment. Permission was GRANTED in April 2010 subject to 9 no. conditions.

F20A/0526: Permission for a single storey vegetable chill shed on the existing farmyard. Permission was GRANTED in January 2021 subject to 12 no. conditions.

On lands immediately adjacent to subject lands:

Case Ref. No. ABP-316648-23 (Local Authority Ref. no. RZLT144/22): The Board decided to confirm the determination of the Local Authority that the lands are in scope of Section 653B of the Taxes and Consolidation Act 1997, as amended. A decision was issued on 23rd August 2023.

Case Ref. No. ABP-320364-24 (Local Authority Ref. No. FIN-C657-RZLT 24/29): The Board decided to confirm the determination of the Local Authority that the lands are in scope of Section 653B of the Taxes and Consolidation Act 1997, as amended. A decision was issued on 3rd October 2024.

Case Ref. No. ABP-320374-24 (Local Authority Ref. No. FIN-C657-RZLT24-30): The Board decided to confirm the determination of the Local Authority that the lands are in scope of Section 653B of the Taxes and Consolidation Act 1997, as amended. A decision was issued on 3rd October 2024.

Case Ref. No. ACP-323274-25 (Local Authority Ref. No. FIN-C790-RZD26-26): The Board decided to confirm the determination of the Local Authority that the lands are in scope of Section 653B of the Taxes and Consolidation Act 1997, as amended. A decision was issued on 6th November 2025.

Case Ref. No. ACP-323274-25 (Local Authority Ref. No. FIN-C790-RZD26-27):
The Board decided to confirm the determination of the Local Authority that the lands are in scope of Section 653B of the Taxes and Consolidation Act 1997, as amended. A decision was issued on 6th November 2025.

Submissions by Prescribed Bodies – PA Stage

None.

Determination by the Local Authority

It has been determined that the site in question fulfils the qualifying criteria set out in Part 22a of the Taxes Consolidation Act 1997 (as introduced by the Finance Act 2021) and the 2022 Section 28 Ministerial Guidelines 'Residential Zoned Land Tax-Guidelines for Planning authorities' for inclusion on the RZLT map for the following reasons:

1) The land in question is included in a development plan or local area plan and is zoned for residential development or zoned for a mixture of uses, that includes residential development.

2) The land is serviced, or it is reasonable to consider may have access to services. Serviced means having access to the necessary public infrastructure and facilities including road and footpath access, public lighting, foul sewer drainage, surface water drainage, and water supply necessary for dwellings to be developed and for which there is service capacity available sufficient to enable housing to be developed.

3) The land is not affected in terms of its physical condition, by matters to a sufficient extent to preclude the provision of dwellings, including contamination or the presence or archaeological or historic remains.

4) The existing non-residential use of the lands that are the subject of the submission are not considered to benefit from the exclusions set out in the Finance Act at Section 653B.

The Appeal

The following points were raised within the appeal submission:

Response to Reason 1:

- The Appellants accept reason no. 1 of the Local Authority decision that the land in question is included in a development plan or local area plan and is zoned for residential development or zoned for a mixture of uses, that includes residential development. The Appellants state that this was not disputed by them in the initial submission to the Local Authority.

Response to Reason 2:

- The Appellants accept reason no. 2 of the Local Authority decision that the land is serviced meaning having access to the necessary public infrastructure and facilities including road and footpath access, public lighting, foul sewer drainage, surface water drainage and water supply necessary for dwellings to be developed and for which there is service capacity available sufficient to enable housing to be developed. The Appellants state that the fact the site can be connected to public infrastructure and facilities was not disputed in the initial submission to the Local Authority.

Response to Reason 3:

- The Appellants refute Reason no. 3 of the Local Authority decision that the land is not affected in terms of its physical condition, by matters to a sufficient extent to preclude the provision of dwellings, including contamination or the presence or archaeological or historic remains. The Appellants consider there are physical conditions on the site which affect the development capacity of the lands for residential development. In particular, the appellants note that a family farm operates on the site within a number of agricultural buildings. The Appellants note that specific to this appeal site/ submission for the horticultural business to continue to operate at this location, the width and location of the access point to the yard must be maintained. There would be very minimal space available for any new development to be provided within this section of the yard. Any new residential development would require private amenity space and parking space which would not be available within the subject site. In order to accommodate any form of residential development within the subject site the existing operating horticultural business would be forced to relocate or close. The appellants state that the family cannot afford to face such a reality.

Response to Reason 4:

- The appellants refute reason no. 4 of the Local Authority decision that the existing non-residential use of the lands that are the subject of the submission are not considered to benefit from the exclusions set out in the Finance Act at Section 653B (c). The appellants state that the reason is refuted as they can confirm that a long-standing agricultural/commercial use has remained in use on the subject land parcel. The appellants state that this agricultural use relates to storing and packaging vegetables grown on the adjacent and wider family farm and that while the residential element of the land parcel

comprises the western area of the lands, the agricultural use of the lands comprises the eastern and northern portions of the land parcel, as shown in Figure 8.0 of the Appellants Appeal submission. The appellants submit that, as such, the land parcel comprises an active agricultural use supported by the yard areas and agricultural structures and that the yard area provides the business with the required only access for large vehicles to enter the land parcel and move within it. This yard area is stated to also be used for the purposes of a parking area for tractors and other heavy machinery, both of which are stated to be essential to the running of the business on this subject land parcel and the family farm. The subject appeal site, which comprises the subject yard area and access, are stated to be crucial to the operation of the commercial business.

- Use of the Lands/ Employment/ Crucial to the operation of this rural business

    - The operations of the subject site provide for food production in the area and support a number (eleven) employees. The family farm, from where the produce packaged on site originates, employs 11 no. person's full time. The yard area which is the subject of this appeal is stated to be crucial to the operation of the site. The Appellant state that the lands provide an employment service and economic contribution to the area.

Further Reasoning:

- The wider land parcel subject to the Residential Zoned Land Tax comprises a farmyard. The subject site to which this appeal submission relates, although small in scale, forms a vital component of the Appellants family farm. Owing to the importance of the lands in supporting the continued economic viability of the lands, the

appellants are not in a financial position to sell the property. There is a very real prospect that the family business will be forced to close owing to the requirement to pay this tax and this will present additional knock-on economic impacts to other supporting businesses and loss of employment within the family and their employees

- The Irish Horticulture Sector is already volatile, and the addition of this tax will serve to force such businesses to leave the sector which presents knock on cost implications for consumers.

- The Appellants are not land hoarders, the lands are not idle nor speculative and are essential for the business to fully function.

- The Appellants submitted a rezoning request to the Local Authority on 1st April 2026 regarding the current situation of the lands. The rezoning request is stated to have been in line with the provisions of the Residential Zoned Land Tax – Change in zoning of lands subject to existing economic activity, Guidelines for Planning Authorities, December 2024 and, in particular Policy Objective 1 a). The said rezoning request was rejected by the Local Authority. Owing to the specific set out circumstances associated with the subject land parcel and family business, which has operated over generations, has benefited from significant investment, provides local employment and are part of a balanced approach to ensuring a variety of uses in support of sustainable communities, the Appellant submits that the Coimisiún should remove the subject lands/ land parcel from the Draft 2027Residential Zoned Land (RZLT) Map.

Submissions by Prescribed Bodies – Appeal Stage

Uisce Eireann-Referral response received from Uisce Eireann on the 19th day of August 2026 who confirm that the area is serviced for both water and wastewater.

Assessment		
Date of Assessment: 12th day of October 2026		
Zoning Status of Land		
The subject lands/site (a) is included in a development plan, in accordance with section 10(2)(a) of the Act of 2000, or local area plan, in accordance with section 19(2)(a) of the Act of 2000, zoned—	(i) solely or primarily for residential use,	The lands are zoned RS-Residential in the current Fingal County Development Plan 2023-2029 and are considered within scope of section 653B(a)(i) or 653B(a)(ii). Under Section 653J of the Taxes Consolidation Act 1997 as amended, the Commission's role in the current appeal is to review the determination of the local authority under section 653E which is based on the application of the relevant criteria set out in section 653B of the Act for inclusion on the RZLT map. This position is consistent with the Residential Zoned Land Tax- Guidelines for Planning Authorities June 2022 which clearly sets out in section 3.3.2 that:

		"in considering appeals, An Bord Pleanála is restricted to considering the grounds of appeal, the determination of the local authority on the submission made during public display period, and any additional information on the servicing or use of the land which the Board may seek from the landowner, Local Authority or stakeholders identified in Article 28 of the 2001 regulations. In assessing any appeal, the Coimisiún is restricted to considering whether the lands meet the qualifying criteria set out in section 653B only". I consider that the lands meet the criteria for inclusion on the map under Section 653B (a)(b) and (c) in that they are zoned for a solely or primarily for residential use, the suburban location means it is reasonable to consider it may have access, or be

		connected to public infrastructure and facilities and it is reasonable to consider that it is not affected, in terms of its physical condition, by matters to a sufficient extent to preclude the provision of dwellings.
Status of Lands		
653B(2)(a)(i) (primarily residential use)	**653B(c)(i)**	
	(i) Development which is not unauthorised and is in use as a premises, in which a trade or profession is being carried on, that is liable to commercial rates, that it is reasonable to consider is being used to provides services to residents of adjacent residential areas	Based on the information submitted, I consider that the horticultural operations on site are authorised. However, I note the provisions of Section 3.1.2 of the RZLT Guidelines where it states that the 'use of land or horticultural purposes are not considered to be exempted from scope as they are not subject to rates.'
653B(2)(b)	Is it reasonable to consider may have access or be connected to public infrastructure and facilities necessary for	I consider that by virtue of the suburban location and the referral response received from UE means

	dwellings to be developed and with sufficient service capacity available for such development.	it is reasonable to consider it may have access, or be connected to public infrastructure and facilities.
	Roads	YES
	Footpaths	YES
	Public Lighting	YES
	Foul sewer Drainage	YES
	Water Supply	YES
	Does 653B(2)(c) apply?	
Provisions of 653B(2)(c)		
653B(2)(c)	It is reasonable to consider is not affected, in terms of its physical condition, by matters to a sufficient extent to preclude the provision of dwellings, including contamination or the presence of known archaeological or historic remains.	Yes however, regarding the fact that the lands are used as part of the appellants family horticultural business, the fact that the lands are in agricultural use does not qualify for omitting the lands from the map under Section 653B. The Taxes Consolidation Act 1997, as amended, by the Finance Act, 2021, includes in Section 653B

		the criteria for inclusion in the map. This states that it is applicable to lands zoned '(a) (i) solely or primarily for residential use, or (ii) for a mixture of uses, including residential use' but not '653B ii) that is referred to in paragraph (a) (ii), unless it is reasonable to consider that the land is vacant or idle.' The land is zoned for residential use and, therefore, the exemption under part 653B ii) does not apply.
Exclusions 653B (iii) to (v) –		
BUT which is not land (iii) that it is reasonable to consider is required for, or is integral to, occupation by:	(I) social, community or governmental infrastructure and facilities, including infrastructure and facilities used for the purposes of public administration or the provision of education or healthcare,	NO
	(II) transport facilities and infrastructure,	NO

	(III)	energy infrastructure and facilities,	NO
	(IV)	telecommunications infrastructure and facilities,	NO
	(V)	water and wastewater infrastructure and facilities,	NO
	(VI)	waste management and disposal infrastructure, or	NO
	(VII)	recreational infrastructure, including sports facilities and playgrounds,	NO.
(iv) that is subject to a statutory designation that may preclude development, or			NO
(v) on which the derelict sites levy is payable in accordance with the Derelict Sites Act 1990			NO

Assessment – Key Conclusions

For the purposes of falling within the scope of the RZLT, the criteria are whether it 'is reasonable to consider'. The local authority determined the lands to be in scope as it is reasonable to consider that the lands have access or may be connected to

public infrastructure and facilities including road, footpaths, public lighting, foul sewer drainage, surface water drainage and water supply that is necessary for dwellings to be developed and that have sufficient service capacity for such development and the lands are not affected in terms of their physical condition by matters to a sufficient extent to preclude the provision of dwellings. The provision of infrastructure to the subject lands is considered to be in the control of Fingal County Council or Uisce Eireann and the local authority determined that that the subject lands are in scope and, therefore, retained within the RZLT Final Map.

Page 8 of the Residential Zoned Land Tax - Guidelines for Planning Authority, June 2022 (RZLT Guidelines) sets out that a need for network upgrades is not considered to exclude lands, where sufficient treatment capacity is confirmed to exist. Issues relating to wastewater or water capacity were not raised by the appellants and it is contended that there is access to water services in this instance. Based on the information submitted, the applicants have not submitted documentary or other technical information to support the contention that the storage use on site is authorised and that the storage facility provides service to residents of adjacent residential areas.

Based on the information contained in the Uisce Eireann referral response (dated 19th day of August 2026), UE have confirmed that the area is serviced for both water and wastewater**.** I consider that based on this information, it is reasonable to consider that there is access to/or a connection can be facilitated to sewer and water connections on land that is the control of the local authority and/or the landowner. On this basis, the land, therefore, satisfies the criteria cited in section 653B(b) of the Taxes Consolidation Act 1997, as amended and the grounds of appeal should be dismissed.

Recommendation	
Confirm	I consider that the lands identified at Kinsealy Lane, Malahide, Co. Dublin (Parcel ID FL0000002700) meet the qualifying criteria set out in section 653B of the Taxes Consolidation Act 1997, as amended. The grounds of appeal have not raised other matters

	under section 653B of the Taxes Consolidation Act 1997, as amended and there are no matters arising that warrant exclusion of the subject lands from the final map.

Reasons and Considerations

In the assessment of this appeal, regard was had to the content of the Residential Zoned Land Tax- Guidelines for Planning Authority June 2022 which are considered to be a helpful complement to understanding the spirit and intent of the primary legislation. However, the recommendation is made within the clear parameters of the applicable legislation.

The lands identified at Kinsealy Lane, Malahide, Co. Dublin (Parcel ID FL0000002700) located on lands zoned RS-Residential are considered in scope of section 653B(a). The lands are located within an established urban area with documentary evidence from UE that services are available and that there is sufficient wastewater capacity to serve the lands. No capacity or other reasons have been identified that would prevent the development of these lands in principle for residential purposes in accordance with the residential zoning objective that applies to these lands.

Recommended Draft Order

Taxes Consolidation Act 1997 as amended
Planning Authority: Fingal County Council

Local Authority Reference Number: FIN-C917-RZD27-25

Appeal by Anne and Maria Murphy care of Hughes Planning and Development Consultants in accordance with section 653J of the Taxes Consolidation Act 1997 as amended, against the inclusion of the land on the Residential Zoned Land Tax Map by Dublin City Council on the 29th day of June 2026 in respect of the site described below.

Lands at: Kinsealy Lane, Malahide, Co. Dublin

Decision

The Commission in accordance with section 653J of the Taxes Consolidation Act 1997 as amended, and based on the reasons and considerations set out below, hereby decided to:

Select one:

The Commission confirm the determination of the local authority and direct the local authority to retain the lands identified at Kinsealy Lane, Malahide, Co. Dublin (Parcel ID FL0000002700) on the final map.

Reasons and Considerations

In the assessment of this appeal, regard was had to the content of the Residential Zoned Land Tax- Guidelines for Planning Authority June 2022 which are considered to be a helpful complement to understanding the spirit and intent of the primary legislation. However, the recommendation is made within the clear parameters of the applicable legislation.

The lands identified at Kinsealy Lane, Malahide, Co. Dublin (Parcel ID FL0000002700) located on lands zoned RS-Residential are considered in scope of section 653B(a). The lands are located within an established urban area with documentary evidence from UE that services are available and that there is sufficient wastewater capacity to serve the lands. No capacity or other reasons have been identified that would prevent the development of these lands in principle for residential purposes in accordance with the residential zoning objective that applies to these lands.

Declaration

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence me, directly or indirectly, following my professional assessment and recommendation set out in my report in an improper or inappropriate way.

Fergal Ó Bric

Planning Inspectorate

Date: 12th day of October 2026